

NEVADA REVISED STATUTES

CHAPTER 459

HAZARDOUS MATERIALS

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REGULATION OF HIGHLY HAZARDOUS SUBSTANCES AND EXPLOSIVES

General Provisions

NRS 459.380 Legislative declaration. The legislature hereby declares that the purposes of NRS 459.380 to 459.3874, inclusive, are to:

1. Protect the health, safety and general welfare of the residents of this state from the effects of the improper handling of hazardous chemicals or explosives at the point where:

(a) The chemicals are produced, used or stored in this state; or

(b) The explosives are manufactured for sale in this state;

2. Ensure that the employees of this state who are required to work with hazardous chemicals or explosives are guaranteed a safe and healthful working environment;

3. Protect the natural resources of this state by preventing and mitigating accidental or unexpected releases of hazardous chemicals into the environment; and

4. Ensure the safe and adequate handling of:

(a) Hazardous chemicals that are produced, used, stored or handled in this state; and

(b) Explosives that are manufactured for sale in this state.

(Added to NRS by 1991, 1994; A 1999, 1125)

NRS 459.3802 Definitions. As used in NRS 459.380 to 459.3874, inclusive, unless the context otherwise requires, the words and terms defined in NRS 459.3804 to 459.38125, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1991, 1994; A 1999, 1125, 1919, 2007)

NRS 459.3804 “Chemical accident” defined. “Chemical accident” means an unexpected discharge or emission into the environment, chemically caused, which causes death or substantial bodily harm to workers at the site or to the general public. The term includes a chemically caused fire or explosion.

(Added to NRS by 1991, 1994)

NRS 459.3806 “Division” defined. “Division” means the division of environmental protection of the state department of conservation and natural resources.

(Added to NRS by 1991, 1994)

NRS 459.3807 “Explosive” defined. “Explosive” means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses other than electric circuit breakers, detonators and other detonating agents, smokeless powders, other explosive or incendiary devices

and any chemical compound, mechanical mixture or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that ignition by fire, friction, concussion, percussion, or detonation of the compound, mixture or device or any part thereof may cause an explosion. The term includes any mixture of ammonium nitrate and fuel oil. The term does not include any ammunition, powder, percussion caps, fuses, quills, matches, primers or explosive materials specified in 18 U.S.C. § 845(a)(4)-(6).

(Added to NRS by 1999, 1124)

NRS 459.3808 “Hazard” defined. “Hazard” means a characteristic of a:

1. Highly hazardous substance designated as such in NRS 459.3816 or any regulations adopted pursuant thereto;
 2. System involving the use of such a highly hazardous substance;
 3. Manufacturing plant using or producing a highly hazardous substance;
 4. Regulated facility that manufactures explosives for sale; or
 5. Process relating to a highly hazardous substance,
- which makes possible a chemical accident or explosion.

(Added to NRS by 1991, 1994; A 1997, 1398; 1999, 1125)

NRS 459.3809 “Process” defined. [Effective January 1, 2000.] “Process” means:

1. Any activity that involves a substance listed in NRS 459.3816 or in a regulation of the division adopted pursuant to NRS 459.3833, and includes, without limitation, the use, storage, manufacture, handling or on-site movement of the substance, or any combination thereof.
2. A group of vessels that are used in connection with such an activity, including vessels that are:
 - (a) Interconnected; or
 - (b) Separate, but located in such a manner which makes possible the release of a substance.

(Added to NRS by 1999, 2006, effective January 1, 2000)

NRS 459.381 “Regulated facility” defined. “Regulated facility” means a building, equipment and contiguous area where:

1. Highly hazardous substances are produced, used, stored or handled; or
2. Explosives are manufactured for sale.

(Added to NRS by 1991, 1994; A 1999, 1125)

NRS 459.3812 “Risk” defined. “Risk” means a risk posed by:

1. A highly hazardous substance that is produced, used, stored or handled at a regulated facility; or
2. An explosive that is manufactured for sale at a regulated facility.

(Added to NRS by 1991, 1994; A 1999, 1126)

NRS 459.38125 “Vessel” defined. [Effective January 1, 2000.] “Vessel” means a reactor, tank, drum, barrel, cylinder, vat, kettle, boiler, pipe, hose or other container.

(Added to NRS by 1999, 2007, effective January 1, 2000)

NRS 459.3813 Applicability of provisions to certain regulated facilities; exemptions.

1. Except as otherwise provided in this section and NRS 459.3814, the provisions of NRS 459.380 to 459.3874, inclusive, apply to a regulated facility that:

(a) Produces, uses, stores or handles a highly hazardous substance in a quantity:

(1) Equal to or greater than the amount set forth in NRS 459.3816; or

(2) Less than the amount set forth in NRS 459.3816 if there are two or more releases from the regulated facility of the same or different highly hazardous substances during any 12-month period and:

(I) The release of the highly hazardous substances is reportable pursuant to 40 C.F.R. Part 302; or

(II) Each quantity released is equal to or greater than a maximum quantity allowable as established by regulation of the state environmental commission; or

(b) Manufactures explosives for sale.

2. A regulated facility described in subparagraph (2) of paragraph (a) of subsection 1 is exempt from complying with the provisions of NRS 459.380 to 459.3874, inclusive, if:

(a) The division determines that the regulated facility has:

(1) Carried out the detailed plan to abate hazards recommended pursuant to subsection 3 of NRS 459.3852; and

(2) Complied with such other provisions of NRS 459.380 to 459.3874, inclusive, and the regulations adopted pursuant thereto, as the division requires; and

(b) The regulated facility obtains an exemption from the state environmental commission. The state environmental commission shall adopt by regulation the procedures for obtaining such an exemption.

3. As used in this section, "highly hazardous substance" means any substance designated as such in NRS 459.3816 or any regulations adopted pursuant thereto.

(Added to NRS by 1997, 1396; A 1999, 1126)

NRS 459.3814 Applicability of provisions: Excluded activities. The provisions of NRS 459.380 to 459.3874, inclusive, do not apply to:

1. The transportation of any hazardous substances within or through this state which is regulated by the state or the United States Department of Transportation.
2. Any final use of anhydrous ammonia for an agricultural purpose, including storage of the substance on the premises of a farm.
3. Activities which are regulated pursuant to both 30 U.S.C. §§ 801 et seq. and 42 U.S.C. § 7412(r).

(Added to NRS by 1991, 1994; A 1993, 149, 837; 1997, 1398)

NRS 459.3816 Designation of highly hazardous substances.

1. The following substances are designated as highly hazardous, if present in the quantity designated after each substance or a greater quantity:

Chemical Name of Substance	Number Assigned	
	by Chemical Abstract Service	Quantity (In pounds)
Acetaldehyde.....	75-07-0	2500
Acrolein (2-Propenal).....	107-02-8	150
Acrylyl Chloride.....	814-68-6	250
Allyl Chloride.....	107-05-1	1000
Allylamine.....	107-11-9	1000
Alkylaluminums.....	None	5000
Ammonia, Anhydrous.....	7664-41-7	5000
Ammonia solutions (concentration greater than 44% ammonia by weight)	7664-41-7	10000
Ammonium Perchlorate.....	7790-98-9	7500

Ammonium Permanganate.....	7787-36-2	7500
Arsine (also called Arsenic Hydride).....	7784-42-1	100
Bis (Chloromethyl) Ether.....	542-88-1	100
Boron Trichloride.....	10294-34-5	2500
Boron Trifluoride.....	7637-07-2	250
Bromine.....	7726-95-6	1500
Bromine Chloride.....	13863-41-7	1500
Bromine Pentafluoride.....	7789-30-2	2500
Bromine Trifluoride.....	7787-71-5	15000
3-Bromopropyne (also called Propargyl Bromide).....	106-96-7	100
Butyl Hydroperoxide (Tertiary).....	75-91-2	5000
Butyl Perbenzoate (Tertiary).....	614-45-9	7500
Carbonyl Chloride (see Phosgene).....	75-44-5	100
Carbonyl Fluoride.....	353-50-4	2500
Cellulose Nitrate (concentration greater than 12.6% Nitrogen)	9004-70-0	2500
Chlorine.....	7782-50-5	1500
Chlorine Dioxide.....	10049-04-4	1000
Chlorine Pentafluoride.....	13637-63-3	1000
Chlorine Trifluoride.....	7790-91-2	1000
Chlorodiethylaluminum (also called Diethylaluminum Chloride)	96-10-6	5000
1-Chloro-2,4-Dinitrobenzene.....	97-00-7	5000
Chloromethyl Methyl Ether.....	107-30-2	500
Chloropicrin.....	76-06-2	500
Chloropicrin and Methyl Bromide mixture.....	None	1500
Chloropicrin and Methyl Chloride mixture.....	None	1500
Cumene Hydroperoxide.....	80-15-9	5000

Cyanogen.....	460-19-5	2500
Cyanogen Chloride.....	506-77-4	500
Cyanuric Fluoride.....	675-14-9	100
Diacetyl Peroxide (concentration greater than 70%).....	110-22-5	5000
Diazomethane.....	334-88-3	500
Dibenzoyl Peroxide.....	94-36-0	7500
Diborane.....	19287-45-7	100
Dibutyl Peroxide (Tertiary).....	110-05-4	5000
Dichloro Acetylene.....	7572-29-4	250
Dichlorosilane.....	4109-96-0	2500
Diethylzinc.....	557-20-0	10000
Diisopropyl Peroxydicarbonate.....	105-64-6	7500
Dilauroyl Peroxide.....	105-74-8	7500
Dimethyl Sulfide.....	75-18-3	100
Dimethyldichlorosilane.....	75-78-5	1000
Dimethylhydrazine, 1,1-.....	57-14-7	1000
Dimethylamine, Anhydrous.....	124-40-3	2500
2, 4 Dinitroaniline.....	97-02-9	5000
Ethyl Methyl Ketone Peroxide (also Methyl Ethyl Ketone Peroxide; concentration greater than 60%).....	1338-23-4	5000
Ethyl Nitrite.....	109-95-5	5000
Ethylamine.....	75-04-7	7500
Ethylene Fluorohydrin.....	371-62-0	100
Ethylene Oxide.....	75-21-8	5000
Ethyleneimine.....	151-56-4	1000
Fluorine.....	7782-41-4	100

Formaldehyde (concentration 37% or greater by weight).....	50-00-0	1000
Furan.....	110-00-9	500
Hexafluoroacetone.....	684-16-2	5000
Hydrochloric Acid, Anhydrous.....	7647-01-0	5000
Hydrofluoric Acid, Anhydrous.....	7664-39-3	1000
Hydrogen Bromide.....	10035-10-6	5000
Hydrogen Chloride.....	7647-01-0	5000
Hydrogen Cyanide, Anhydrous.....	74-90-8	1000
Hydrogen Fluoride.....	7664-39-3	1000
Hydrogen Peroxide (concentration 52% greater by weight).....	7722-84-1	7500
Hydrogen Selenide.....	7783-07-5	150
Hydrogen Sulfide.....	7783-06-4	1500
Hydroxylamine.....	7803-49-8	2500
Iron, Pentacarbonyl-.....	13463-40-6	250
Isopropyl Formate.....	625-55-8	500
Isopropylamine.....	75-31-0	5000
Ketene.....	463-51-4	100
Methacrylaldehyde.....	78-85-3	1000
Methacryloyl Chloride.....	920-46-7	150
Methacryloyloxyethyl Isocyanate.....	30674-80-7	100
Methyl Acrylonitrile.....	126-98-7	250
Methylamine, Anhydrous.....	74-89-5	1000
Methyl Bromide.....	74-83-9	2500
Methyl Chloride.....	74-87-3	15000
Methyl Chloroformate.....	79-22-1	500
Methyl Disulfide.....	624-92-0	100

Methyl Ethyl Ketone Peroxide (also Ethyl Methyl Ketone Peroxide; concentration greater than 60%).....	1338-23-4	5000
Methyl Fluoroacetate.....	453-18-9	100
Methyl Fluorosulfate.....	421-20-5	100
Methyl Hydrazine.....	60-34-4	100
Methyl Iodide.....	74-88-4	7500
Methyl Isocyanate.....	624-83-9	250
Methyl Mercaptan.....	74-93-1	5000
Methyl Vinyl Ketone.....	78-94-4	100
Methyltrichlorosilane.....	75-79-6	500
Nickel Carbonyl (Nickel Tetracarbonyl).....	13463-39-3	150
Nitric Acid (concentration 94.5% or greater by weight).....	7697-37-2	500
Nitric Oxide.....	10102-43-9	250
Nitroaniline (para Nitroaniline).....	100-01-6	5000
Nitromethane.....	75-52-5	2500
Nitrogen Dioxide.....	10102-44-0	250
Nitrogen Oxides (NO; NO ₂ ; N ₂ O ₄ ; N ₂ O ₃).....	10102-44-0	250
Nitrogen Tetroxide (also called Nitrogen Peroxide).....	10544-72-6	250
Nitrogen Trifluoride.....	7783-54-2	5000
Nitrogen Trioxide.....	10544-73-7	250
Oleum (65% or greater by weight of sulfur trioxide; also called Fuming Sulfuric Acid).....	8014-95-7	1000
Osmium Tetroxide.....	20816-12-0	100
Oxygen Difluoride (Fluorine Monoxide).....	7783-41-7	100
Ozone.....	10028-15-6	100
Pentaborane.....	19624-22-7	100

Peracetic Acid (concentration greater than 60% Acetic Acid; also called Peroxyacetic Acid).....	79-21-0	1000
Perchloric Acid (concentration greater than 60% by weight).....	7601-90-3	5000
Perchloromethyl Mercaptan.....	594-42-3	150
Perchloryl Fluoride.....	7616-94-6	5000
Peroxyacetic Acid (concentration greater than 60% Acetic Acid; also called Peracetic Acid).....	79-21-0	1000
Phosgene (also called Carbonyl Chloride).....	75-44-5	100
Phosphine (Hydrogen Phosphide).....	7803-51-2	100
Phosphorus Oxychloride (also called Phosphoryl Chloride)....	10025-87-3	1000
Phosphorus Trichloride.....	7719-12-2	1000
Phosphoryl Chloride (also called Phosphorus Oxychloride)....	10025-87-3	1000
Propargyl Bromide (also called 3-Bromopropyne).....	106-96-7	100
Propyl Nitrate.....	627-13-4	100
Sarin.....	107-44-8	100
Selenium Hexafluoride.....	7783-79-1	1000
Stibine (Antimony Hydride).....	7803-52-3	500
Sulfur Dioxide (liquid).....	7446-09-5	1000
Sulfur Pentafluoride.....	5714-22-7	250
Sulfur Tetrafluoride.....	7783-60-0	250
Sulfur Trioxide (also called Sulfuric Anhydride).....	7446-11-9	1000
Sulfuric Anhydride (also called Sulfur Trioxide).....	7446-11-9	1000
Tellurium Hexafluoride.....	7783-80-4	250
Tetrafluoroethylene.....	116-14-3	5000
Tetrafluorohydrazine.....	10036-47-2	5000
Tetramethyl Lead.....	75-74-1	1000
Thionyl Chloride.....	7719-09-7	250

Titanium Tetrachloride.....	7550-45-0	2500
Trichloro (chloromethyl) Silane.....	1558-25-4	100
Trichloro (dichlorophenyl) Silane.....	27137-85-5	2500
Trichlorosilane.....	10025-78-2	5000
Trifluorochloroethylene.....	79-38-9	10000
Trimethoxysilane.....	2487-90-3	1500

2. The division, in consultation with the health districts created pursuant to NRS 439.370, the health division of the department of human resources and the division of industrial relations of the department of business and industry, shall regularly examine the sources of information available to it with regard to potentially highly hazardous substances. The division shall, by regulation, add to the list of highly hazardous substances any chemical that is identified as being used, manufactured, stored, or capable of being produced, at a facility, in sufficient quantities at a single site, that its release into the environment would produce a significant likelihood that persons exposed would suffer death or substantial bodily harm as a consequence of the exposure.

(Added to NRS by 1991, 1995; A 1993, 590, 1630; 1997, 1398; 1999, 1116, 1212)

Administration

NRS 459.3818 Regulations; involvement of interested persons.

1. The division shall adopt such regulations as are necessary to carry out the purposes and enforce the provisions of NRS 459.380 to 459.3874, inclusive.

2. The division shall make every effort to involve advisory councils on hazardous materials, where they exist, the governing bodies of local governments and other interested persons in explaining actions taken pursuant to those sections and the regulations adopted pursuant thereto.

(Added to NRS by 1991, 1998)

NRS 459.3819 Inspections by state and local agencies of certain regulated facilities where certain explosives are manufactured, used, processed, handled, moved on site or stored.

1. The division shall enter into cooperative agreements with state and local agencies to provide inspections of regulated facilities where explosives are manufactured, or where an explosive is used, processed, handled, moved on site or stored in relation to its manufacture. The division shall schedule the inspections in such a manner as to provide an opportunity for participation by:

(a) A representative of the fire-fighting agency that exercises jurisdiction over the regulated facility;

(b) A representative of the law enforcement agency that exercises jurisdiction over the regulated facility; and

(c) Representatives of the division and any other state agency responsible for minimizing risks to persons and property posed by such regulated facilities.

2. The owner or operator of such a regulated facility shall make the facility available for the inspections required by this section at such times as are designated by the division.

3. Any inspection of a regulated facility conducted pursuant to this section is in addition to, and not in lieu of, any other inspection of the facility required or authorized by state statute or local ordinance.

4. Notwithstanding any provision of this section to the contrary, the provisions of this section do not apply to the mining industry.

5. Except as otherwise provided in subsection 6, as used in this section, “explosive” means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses other than electric circuit breakers, detonators and other detonating agents, smokeless powders, other explosive or incendiary devices and any chemical compound, mechanical mixture or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that ignition by fire, friction, concussion, percussion, or detonation of the compound, mixture or device or any part thereof may cause an explosion.

6. For the purposes of this section, an explosive does not include:

(a) Ammunition for small arms, or any component thereof;

(b) Black powder commercially manufactured in quantities that do not exceed 50 pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers that are intended to be used solely for sporting, recreation or cultural purposes:

(1) In an antique firearm, as that term is defined in 18 U.S.C. § 921(a)(16), as that section existed on January 1, 1999; or

(2) In an antique device which is exempted from the definition of “destructive device” pursuant to 18 U.S.C. § 921(a)(4), as that section existed on January 1, 1999; or

(c) Any explosive that is manufactured under the regulation of a military department of the United States, or that is distributed to, or possessed or stored by, the military or naval service or any other agency of the United States, or an arsenal, a navy yard, a depot or any other establishment owned by or operated on behalf of the United States.

(Added to NRS by 1999, 1918)

NRS 459.382 Reports of regulatory agencies; review of requirements of regulatory agencies; final authority of division.

1. The health division of the department of human resources, the division of industrial relations of the department of business and industry and any other governmental entity or agency of the state responsible for minimizing risks to persons and property posed by regulated facilities and hazardous substances shall submit to the division such reports as the division deems necessary to carry out the provisions of NRS 459.380 to 459.3874, inclusive. The reports must be submitted at such times and contain such information as required by the division.
2. The division shall adopt by regulation common reporting forms to be used by such governmental entities and agencies when reporting information related to hazardous substances and regulated facilities.
3. The division shall review the rules, regulations, standards, codes and safety orders of other governmental entities and agencies of the state responsible for minimizing risks to persons and property posed by regulated facilities and hazardous substances to ensure that they are sufficient to carry out the provisions of NRS 459.380 to 459.3874, inclusive.
4. If the division and any other governmental entity or agency of the state have coexisting jurisdiction over the regulation of regulated facilities or hazardous substances located at such facilities, the division has the final authority to take such actions as are necessary to carry out the provisions of NRS 459.380 to 459.3874, inclusive.

(Added to NRS by 1991, 1998; A 1993, 594, 1634)

NRS 459.3822 Records, reports and information available for public inspection; inclusion of description of information deleted to protect trade secret; fee.

1. Any records, reports or information obtained pursuant to NRS 459.380 to 459.3874, inclusive, must be made available to the public for inspection and copying. If protection of a trade secret pursuant to NRS 459.3846 requires a deletion, the deletion must be limited to that information essential for compliance. In the event of deletion, the division shall substitute language generally describing what was deleted, without revealing the trade secret, so that the information contained in the record or report is comprehensible.
2. The person requesting the copy or copies of the public records, shall tender or pay to the division such fee as may be prescribed for the service of copying.

(Added to NRS by 1991, 2008)

NRS 459.3824 Annual fees; fund for precaution against chemical accidents. [Effective through December 31, 1999.]

1. The owner of a regulated facility shall pay to the division an annual fee based on the fiscal year. The annual fee for each facility is the sum of a base fee set by the state environmental commission and any additional fee imposed by the commission pursuant to subsection 2. The annual fee must be prorated and may not be refunded.

2. The state environmental commission may impose an additional fee upon the owner of a regulated facility in an amount determined by the commission to be necessary to enable the division to carry out its duties pursuant to NRS 459.380 to 459.3874, inclusive. The additional fee must be based on a graduated schedule adopted by the commission which takes into consideration the quantity of hazardous substances or explosives located at each facility.

3. After the payment of the initial annual fee, the division shall send the owner of a regulated facility a bill in July for the annual fee for the fiscal year then beginning which is based on the applicable reports for the preceding year.

4. The owner of a regulated facility shall submit, with any payment required by this section, the number assigned by the department of taxation, for the imposition and collection of taxes pursuant to chapter 364A of NRS, to the business for which the payment is made.

5. All fees collected pursuant to this section and any interest earned thereon must be deposited with the state treasurer for credit to the fund for precaution against chemical accidents, which is hereby created as a special revenue fund.

(Added to NRS by 1991, 1999; A 1993, 907; 1999, 1126)

NRS 459.3824 Annual fees; fund for precaution against chemical accidents. [Effective January 1, 2000.]

1. The owner of a regulated facility shall pay to the division an annual fee based on the fiscal year. The annual fee for each facility is the sum of a base fee set by the state environmental commission and any additional fee imposed by the commission pursuant to subsection 2. The annual fee must be prorated and may not be refunded.

2. The state environmental commission may impose an additional fee upon the owner of a regulated facility in an amount determined by the commission to be necessary to enable the division to carry out its duties pursuant to NRS 459.380 to 459.3874, inclusive. The additional fee must be based on a graduated schedule adopted by the commission which takes into consideration the quantity of hazardous substances located at each facility.

3. After the payment of the initial annual fee, the division shall send the owner of a regulated facility a bill in July for the annual fee for the fiscal year then beginning which is based on the applicable reports for the preceding year.

4. The owner of a regulated facility shall submit, with any payment required by this section, the number assigned by the department of taxation, for the imposition and collection of taxes pursuant to chapter 364A of NRS, to the business for which the payment is made.

5. All fees collected pursuant to this section and penalties collected pursuant to NRS 459.3833, 459.3834 and 459.3874, and any interest earned thereon, must be deposited with the state treasurer for credit to the fund for precaution against chemical accidents, which is hereby created as a special revenue fund.

(Added to NRS by 1991, 1999; A 1993, 907; 1999, 1126, 2007, effective January 1, 2000)

NRS 459.3826 Payment of fees upon opening of new regulated facility or registration of new highly hazardous substance or explosive.

1. Each owner or operator of a new regulated facility shall, within 10 days after the opening of the facility, tender the base fee and any additional fee imposed by the state environmental commission of the state department of conservation and natural resources pursuant to NRS 459.3824 for the first fiscal year with the form for registration of the facility.

2. Each owner or operator of a regulated facility registering a new highly hazardous substance or explosive at the facility shall tender the fee computed from the inventory of the highly hazardous substance or explosive when he registers the substance or explosive.

(Added to NRS by 1991, 2000; A 1993, 907; 1999, 1127)

NRS 459.3828 Form for registration; contents of form; time for filing.

1. The division shall develop and issue a form for registration to be completed by the owner or operator of each facility in the state which at any time:

(a) Produces, uses, stores or handles any highly hazardous substance in the quantity required to make it hazardous, or more; or

(b) Manufactures any explosive for sale.

2. This form must provide, in addition to any other information that may be required by the division:

(a) A list of the highly hazardous substances produced, used, stored or handled at the facility and the quantity of each, which must identify whether those substances are end products, intermediate products, by-products or waste products, if the facility produces, uses, stores or handles highly hazardous substances;

(b) A list of the explosives manufactured for sale at the facility and the quantity of each, if the facility manufactures explosives for sale;

(c) A general description of the process and principal equipment involved in the management of the substances or explosives;

(d) A description of the area in which the facility is situated, including its proximity to population and water supplies;

(e) The extent to which the hazards of the facility have been identified, evaluated and abated, and the expert knowledge and affiliation of the evaluators and any direct or indirect relationship between the evaluators and the owner or operator of the facility; and

(f) The name or names of all insurance carriers underwriting the environmental liability of the facility and the scope of these policies, including any limitations and exclusions.

3. The owner or operator of the facility shall file with the division the registration form developed and issued by the division and the report on safety of the facility required by NRS 459.383:

(a) Not later than 90 days after a substance is added to the list of highly hazardous substances, if the facility produces, uses, stores or handles highly hazardous substances;

(b) Not later than 90 days after an explosive is added to the list of explosives that are manufactured for sale at the facility, if the facility manufactures explosives for sale;

(c) At least 90 days before a highly hazardous substance is newly introduced into the facility, if the facility produces, uses, stores or handles highly hazardous substances; and

(d) At least 90 days before an explosive is newly introduced into the facility, if the facility manufactures explosives for sale.

(Added to NRS by 1991, 2000; A 1999, 1127)

NRS 459.3829 Permits to construct or commence operation of new process: Requirements; application; fee. [Effective January 1, 2000.]

1. No owner or operator of a regulated facility may commence construction or operation of any new process subject to regulation pursuant to NRS 459.380 to 459.3874, inclusive, unless he first obtains all appropriate permits from the division to construct the new process or commence operation of the new process, or both. Before issuing any such permits, the division shall consult with the division of industrial relations of the department of business and industry.

2. An application for such a permit must be submitted on a form prescribed by the division.

3. The division may require the applicant to comply with requirements that it establishes by regulation before issuing any permits for construction and operation of the process.

4. The division may charge and collect a fee for the issuance of such a permit. All fees collected pursuant to this section and any interest earned thereon must be deposited with the state treasurer for credit to the fund for precaution against chemical accidents created pursuant to NRS 459.3824.

(Added to NRS by 1999, 2007, effective January 1, 2000)

NRS 459.383 Report on safety; contents of report; current information required.

1. The owner or operator of each regulated facility shall prepare and provide to the division a written report on safety for the facility. This report must disclose, in addition to other information required by the division:

- (a) The magnitude of any hazard at the regulated facility, and the likelihood of a chemical accident's resulting from the hazard;
- (b) The number of people whose health or safety might be affected by a chemical accident;
- (c) Systems of management and arrangements for staffing for the control of any of the hazards;
- (d) The systems and procedures for the control of these hazards;
- (e) The qualification, experience and training of personnel concerned;
- (f) Documentation concerning design, operation and maintenance of systems to improve safety;
- (g) Plans for emergencies at the facility; and
- (h) Involvement in planning for emergencies near the facility.

2. The information required in the report must be kept current by the owner or operator of each regulated facility. Reports must be refiled with the division at least every 3 years, or sooner if there are substantial informational changes made to the report on file with the division.

(Added to NRS by 1991, 2000)

NRS 459.3832 Certification required for forms and reports; requirements for signature on certification.

1. All forms for registration, reports on safety and reports on the assessment of risk through analysis of hazards must contain a certification in one of the following two forms:

(a) "I certify under penalty of law that the information provided in this document is true, accurate and complete. I am aware that there are significant civil and criminal penalties for submitting false, inaccurate or incomplete information, including fines or imprisonment, or both."

(b) "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attached documents and that based on my inquiry of the natural persons immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil and criminal penalties for submitting false information, including the possibility of fines or imprisonment, or both."

2. The certification must be signed by the sole proprietor of the facility, the highest ranking corporate officer or partner at the facility, the manager of the facility, or a person designated by any one of those persons to sign the certification.

(Added to NRS by 1991, 2001)

NRS 459.3833 Program to prevent and minimize consequences of accidental release: Delegation of authority and grant of money from Federal Government; regulations; violations.

1. The state department of conservation and natural resources may, in accordance with the authority granted to it pursuant to NRS 445B.205, apply for and accept any delegation of authority and any grant of money from the Federal Government for the purpose of establishing and carrying out a program to prevent and minimize the consequences of the accidental release of hazardous substances in accordance with the provisions of 42 U.S.C. § 7412(r).

2. The state environmental commission may adopt such regulations as it determines are necessary to establish and carry out such a program. The regulations must:

(a) Establish a list of hazardous substances and the quantities thereof that will be regulated pursuant to the program.

(b) Provide that the provisions of NRS 459.3824, 459.3826 and 459.3828 apply to all facilities regulated pursuant to the program.

(c) Provide that a person who violates any such regulation or the provisions of NRS 459.3824, 459.3826 or 459.3828 is, in addition to any penalty that may apply pursuant to NRS 459.3834, subject to a civil administrative penalty not to exceed \$10,000 per day of the violation, and that each day on which the violation continues constitutes a separate and distinct violation. Any penalty imposed pursuant to this paragraph may be recovered with costs in a summary proceeding by the attorney general.

3. The division:

(a) Shall carry out and enforce the provisions of the program.

(b) May enter into cooperative agreements with other agencies of this state for the enforcement of specific provisions of the program.

4. The division may compromise and settle any claim for any penalty under this section in such amount in the discretion of the division as may appear appropriate and equitable under all of the circumstances, including the posting of a performance bond by the violator. If a violator is subject to the imposition of more than one civil administrative penalty for the same violation, the division shall compromise and settle the claim for the penalty under this section in such amount as to avoid the duplication of penalties.

5. If a person violates any regulation adopted pursuant to subsection 2, or the provisions of NRS 459.3824, 459.3826 or 459.3828, the division may institute a civil action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent the violation and the court may proceed in the action in a summary manner.

(Added to NRS by 1997, 1397)

NRS 459.3834 Unlawful acts; penalty.

1. A person subject to the regulations adopted by the state environmental commission pursuant to NRS 459.3833 shall not knowingly:

- (a) Violate any such regulation or the provisions of NRS 459.3824, 459.3826 or 459.3828;
- (b) Make any false material statement, representation or certification in any required form, notice or report; or
- (c) Render inaccurate any required monitoring device or method.

2. A person who violates subsection 1 shall be punished by a fine of not more than \$10,000 per day of the violation, and each day on which the violation continues constitutes a separate and distinct violation.

(Added to NRS by 1997, 1398)

Assessment of Risks Through Analysis of Hazards

NRS 459.3836 Periodic assessments required; duties of owner or operator of facility and person conducting assessment.

1. Except as otherwise provided in NRS 459.3837, the owner or operator of a facility shall submit the facility to an assessment of risks through analysis of hazards at least every 5 years. The assessment must be conducted by a person or persons who possess the qualifications required pursuant to NRS 459.3842 and are selected by the owner or operator with the approval of the division.

2. In addition to other duties deemed necessary by the owner or operator or the division, the person conducting the assessment shall confirm the accuracy of the facility's current registration and report on safety.

3. The person conducting the assessment shall, at the conclusion of the assessment, issue a report of findings, conclusions and recommendations. One executed original of this report must be sent by the consultant directly to the division.

(Added to NRS by 1991, 2001; A 1999, 1128)

NRS 459.3837 Prerequisites to introduction of new highly hazardous substance or explosive into regulated facility.

1. At least 60 days before a highly hazardous substance or explosive is newly introduced into a regulated facility, the owner or operator of the facility shall submit the facility to an assessment of risks through analysis of hazards.

2. The owner or operator of a regulated facility shall not newly introduce into the facility a highly hazardous substance or explosive:

(a) Until the recommendations in the plan to abate hazards proposed by the person who conducted the assessment are carried out; or

(b) If written modifications are proposed to the plan to abate hazards, until a plan to reduce accidents is issued by the division pursuant to NRS 459.386 and the owner of the facility complies with the requirements of the plan.

(Added to NRS by 1999, 1124)

NRS 459.3838 Schedule for assessments; establishment of priority system. Repealed.
(See chapter 266, Statutes of Nevada 1999, at page 1132.)

NRS 459.384 Designation of persons capable of performing assessment; documentation of ability to perform assessment.

1. The owner or operator of a regulated facility shall, before submitting the facility to an assessment of risks through analysis of hazards, designate a person or persons who are capable of performing an assessment of risks through analysis of hazards on its facility.

2. If any personnel of a regulated facility possess the necessary qualifications to conduct the assessment, the owner or operator of that facility may designate any of those persons to conduct the assessment.

3. Each person designated to conduct the assessment shall present appropriate documentation demonstrating his ability to perform the assessment. The documentation must include:

(a) The person's qualifications in:

- (1) Engineering related to chemical processes;
- (2) Engineering related to safety;
- (3) Preparation of operating procedures;
- (4) Preparation or review of procedures for maintenance;
- (5) Preparation or review of procedures for safety;
- (6) Preparation or review of programs to train operators;
- (7) Performance or review of investigations of accidents;
- (8) Performance of analyses of hazards;
- (9) Performance of risk assessments of risk;
- (10) Preparation or review of plans for response to emergencies;
- (11) Performance of audits of programs to manage risks; and

(12) Knowledge of the state of the art as it relates to the technology of the processes used;

(b) The qualifications and experience of additional personnel who may be assigned as needed; and

(c) The level of effort to be dedicated and a schedule, including the total time, for performing the assessment, including the following:

(1) Names of personnel assigned;

(2) Expected dates of starting and completion;

(3) Estimated total hours for all personnel; and

(4) Scope and extent of usage of collateral items such as computers and outside consultants.

(Added to NRS by 1991, 2002; A 1999, 1128)

NRS 459.3842 Description of how assessment will be conducted; qualifications of persons conducting assessment.

1. The documentation presented pursuant to NRS 459.384 must be accompanied by a clear and concise written description of how the person designated to conduct the assessment of risks through analysis of hazards is going to treat each element of the assessment.

2. The division shall adopt regulations which set forth the qualifications required of persons who conduct assessments. The regulations must:

(a) Require the personnel who are to conduct an assessment to have completed collectively at least one previous project in each of the 12 areas of experience listed in subsection 3 of NRS 459.384;

(b) Set forth the professional experience required for key members of the staff and require one of those members to be a licensed professional engineer;

(c) Set forth the managerial experience required for the leader of the task force;

(d) Set forth the training and experience required for the technical leader of the assessment; and

(e) Set forth the training, professional experience and accumulated experience required for assisting members of the staff.

3. The resumes of the personnel who are to conduct the assessment must be submitted to the division and must demonstrate that collectively the staff has the qualifications required by the division.

(Added to NRS by 1991, 2002)

NRS 459.3844 Approval or rejection of persons designated to perform assessment; selection by division; conditions for conducting assessment.

1. Within 30 days after receiving the names of the persons designated to conduct the assessment of risk through analysis of hazards and supporting documentation from the owner or operator of a facility, the division may approve or reject the persons designated to perform the assessment and make the report. If the division rejects the names of the persons designated on two separate occasions, the division may select the persons to conduct the assessment.

2. Any assessment must be conducted pursuant to the following conditions:

(a) The work must be performed in a complete, professional and independent manner.

(b) The division may stop work on the assessment if it finds that it is not in compliance with the requirements of NRS 459.380 to 459.3874, inclusive, or the regulations adopted pursuant thereto.

(c) Whenever required by the division, the leader of the assessment team shall be available to consult with the division with regard to reports of progress and questions with regard to the report, and be available to testify at public hearings with regard to the preparation of the report and the report itself.

(d) Neither the State of Nevada nor the division is responsible or liable for any money owing to the person conducting the assessment or for the performance of any obligation.

(Added to NRS by 1991, 2003)

NRS 459.3846 Report of assessment; severable addendum containing trade secrets; report required pursuant to federal law sufficient; conditions for protection as trade secret.

1. The person who conducted the assessment shall prepare and provide to the division and the facility a written report of assessment of the risk through analysis of the hazard, which must use as its standard the best available technology for control and must include findings, conclusions and recommendations.

2. The report must be written in a format that will permit its publication. To the extent that any portion of the report requires discussion of trade secrets, that information must be contained in a severable addendum to the report. In writing the report, the person who conducted the assessment shall, while protecting trade secrets, include in the publishable portion of the report sufficient information, in clear and comprehensible nontechnical language, to enable a member of the public to understand the significance of the report's findings, conclusions and recommendations.

3. A plan or report required pursuant to 42 U.S.C. § 7412(r), or any regulations adopted pursuant thereto, that is substantially equivalent to the report required pursuant to subsections 1 and 2 shall be deemed to satisfy the requirements of subsections 1 and 2.

4. A trade secret is entitled to protection under this section only if:

(a) The registrant of the facility has not disclosed the information to any other person, other than a member of a local emergency planning committee, an officer or employee of the United States or a state or local government, an employee of such a person, or a person who is bound by an agreement of confidentiality, and the registrant has taken reasonable measures to protect the confidentiality of the information and intends to continue to take such measures;

(b) The information is not required to be disclosed, or otherwise made available, to the public under any other federal or state law;

(c) Disclosure of the information is likely to cause substantial harm to the competitive position of the registrant; and

(d) The chemical identity of a substance, if that is the trade secret, is not readily discoverable through analysis of the product containing it or scientific knowledge of how such a product must be made.

(Added to NRS by 1991, 2003; A 1997, 1402)

NRS 459.3848 Contents of findings of person conducting assessment. The findings of the person who conducted the assessment must include, without limitation:

1. The identity and quality of all highly hazardous substances produced, used, stored, handled, or that could unwittingly be produced in the event of a breakdown of equipment, human error, defect in design or procedural failure, or the imposition of an external force;

2. The identity and quantity of all explosives that are manufactured for sale at the regulated facility;

3. The nature, age and condition of all of the equipment and instruments used to handle and manage a highly hazardous substance or explosive at the regulated facility, and the schedules for the testing and maintenance of the equipment and instruments;

4. The measures and precautions designed to protect against the intrusions of internal or external forces and events or to control or contain discharges within the regulated facility;

5. Any training or managerial practices in place which impart knowledge to appropriate personnel regarding the dangers posed by a release of a highly hazardous substance or a discharge of an explosive and the training provided to prepare those personnel for the safe operation of the facility and for unanticipated occurrences;

6. Any other preventive maintenance, capability to respond at the regulated facility to an emergency or other internal mechanism developed to safeguard against the occurrence of an accidental release of a highly hazardous substance or accidental discharge of an explosive or any other aspect or component of the facility deemed relevant by the division;

7. The practices, procedures and equipment designed to forestall a hazard at the regulated facility; and

8. Any other information which is relevant to carry out the purposes of the report.

(Added to NRS by 1991, 2004; A 1999, 1129)

NRS 459.385 Contents of conclusions of person conducting assessment. The conclusions of the person who conducted the assessment must include, without limitation:

1. The nature and magnitude of any hazard at the regulated facility;

2. The likelihood of a chemical accident resulting from the hazard at the regulated facility;

3. The circumstances that would result in a discharge of a highly hazardous substance or explosive at the regulated facility;

4. The effectiveness of the systems and procedures for safety at the regulated facility and for the control of any hazards; and

5. Any other information which is relevant for the purposes of the report.

(Added to NRS by 1991, 2004; A 1999, 1130)

NRS 459.3852 Contents of recommendations of person conducting assessment. The recommendations of the person who conducted the assessment must include, without limitation, the following information if applicable to the facility:

1. Alternative processes, procedures or equipment which may reduce the risk of a release of a highly hazardous substance or a discharge of an explosive at the regulated facility while yielding the same or commensurate results;

2. The requirement for:

(a) A change in a process;

(b) A chemical substitution or change;

(c) Any additional safety equipment;

(d) A mitigation system;

(e) Any additional preventive maintenance or responses at the regulated facility to emergencies, to safeguard against a hazard; and

(f) Any additional planning near the regulated facility to meet emergencies;

3. A detailed plan to abate hazards suitable for adoption as an accident reduction plan to reduce accidents; and

4. Any other information which is relevant for the purposes of the report.

(Added to NRS by 1991, 2004; A 1999, 1130)

NRS 459.3854 Notice of receipt of report of assessment; modifications to plan to abate hazards; effective date of plan.

1. Within 5 days after the division receives a report of assessment of risk through analysis of hazards, the division shall:

(a) Send written notice, by registered or certified mail, to the owner of the facility, giving him 30 days after receipt of the notice in which to propose and submit to the division written modifications to the plan to abate hazards proposed by the person who conducted the assessment; and

(b) By publication and use of public-service announcements, inform the public of the division's receipt of the report, the facility to which the report applies, and where the report may be reviewed by the public and a copy obtained for the cost of publication.

2. The division, within the same 30 days, shall also submit to the owner of the facility any written modifications of its own to the proposed plan.

3. If, within the 30 days provided, neither the division nor the owner of the facility proposes any written modifications to the proposed plan, then the plan to abate hazards automatically becomes the plan to reduce accidents and must be put into effect on the day after the expiration of the 30 days.

(Added to NRS by 1991, 2005)

NRS 459.3856 Contents of proposed modifications to plan to abate hazards; dissemination of proposed modifications.

1. Proposed modifications prepared and submitted by the owner of the facility or the division must include:

(a) Detailed reasons and justifications for all modifications proposed;

(b) A showing that the risks to the public are no greater under the proposed modifications than the risks would have been had no modifications been proposed; and

(c) A complete restatement of the plan with brackets placed around language proposed to be deleted from the plan and italics or underscoring to represent language to be added to the plan.

2. Proposed written modifications submitted by either the division or the owner of the facility must be disseminated by the division to the press, the public and any interested party, at cost of reproduction to the division.

(Added to NRS by 1991, 2005)

NRS 459.3858 Hearing on proposed modifications to plan to abate hazards; notice; record of proceeding.

1. If the division or the owner of the facility proposes written modifications to the proposed plan to abate hazards, then the division, within 5 days after the expiration of the period for proposing modifications, shall cause to be published a notice specifying the plan to which proposed modifications have been submitted and specifying a time and place for a public hearing on the proposed modifications.

2. The notice of the public hearing must be given by certified or registered mail to the owner of the facility and by one publication in the newspapers of general circulation within the area of the facility, at least 10 days before the day of the hearing. The public and any interested parties are entitled to participate in the hearing with regard to the proposed modifications to the plan.

3. The public hearing must be conducted no less than 30 days after the submission of the division's or the owner's proposed modifications to the plan.

4. At the public hearing the division shall accept testimony and evidence from the division, the owner of the facility and the public. The transcript of presented testimony and evidence, together with all papers submitted before and at the hearing, constitute the exclusive record of the proceeding. A complete record of the hearing must be made available to each party and to the public, at the cost of reproduction to the division.

(Added to NRS by 1991, 2005)

NRS 459.386 Issuance of decision of division; notice of decision; effective date of plan to reduce accidents; inspection of facility to verify compliance with plan and schedule of abatement.

1. Within 30 days after the conclusion of the public hearing, the division shall issue a written decision based upon the record of the public hearing, setting forth its findings, conclusions and plan to reduce accidents, which must consist of the proposed plan to abate hazards modified in accordance with the findings of the division. Notice of the division's decision and order must be given by certified or registered mail to the owner of the facility and any other interested parties who requested a copy at the public hearing.

2. The division's plan to reduce accidents, including the schedule of abatement, becomes effective 10 days after the mailing of the notice to the owner of the facility as a final decision and is binding on all parties. The owner of the facility shall comply with the requirements of the plan including the schedule of abatement.

3. The division shall make a special inspection of the affected facility to verify and ensure that the owner complies with the plan and schedule of abatement.

(Added to NRS by 1991, 2006)

Committee to Oversee the Management of Risks

NRS 459.3862 “Committee” defined. As used in NRS 459.3864, 459.3866 and 459.3868, unless the context otherwise requires, “committee” means a committee to oversee the management of risks, created pursuant to NRS 459.3864.

(Added to NRS by 1991, 2006)

NRS 459.3864 Creation; appointment of members; appointment of chairman and co-chairman; resources.

1. When there is an accident which poses a significant danger to public health and safety, or a near accident of this nature, in a facility or a group of facilities, or when the governor declares that a committee to oversee the management of risks in a facility, or group of facilities, would be in the best interests of the public health and safety, the governor shall create such a committee for the facility or group of facilities which may represent a catastrophic threat to public health and safety.

2. To the extent practicable, the governor shall appoint the members of the committee from the membership of the state emergency response commission.

3. The governor shall appoint to the committee at least three persons who represent the facility or group of facilities which may represent a catastrophic threat to public health and safety.

4. The governor shall appoint the chairman and may appoint a co-chairman of the committee from among the members.

5. The division shall provide to the committee necessary resources such as clerical assistance and funding sufficient for the committee to perform its duties.

(Added to NRS by 1991, 2006)

NRS 459.3866 Receipt of records and documents; subpoena; informal inquiries; inspection of facility; attorney general is counsel for committee; authorization to make recommendations to reviewing authority.

1. After giving reasonable notice to the facility it oversees and after making arrangements to ensure that the normal operations of the facility will not be disrupted, a committee is entitled to receive from the facility such records and documents as the committee demonstrates are required to carry out its duties. The committee is entitled to receive only those records and documents which cannot be obtained from the division.

2. A committee is entitled to receive from any governmental entity or agency records, documents and other materials relevant to the committee's review and evaluation of the facility to carry out its duties.

3. In carrying out its duties a committee and the attorney general may, by subpoena, require the attendance and testimony of witnesses and the production of reports, papers, documents and other evidence which they deem necessary. Before obtaining such a subpoena, the committee or the attorney general shall request the attendance of the witness or the production of the reports, papers, documents or other evidence. If the person to whom the request is made fails or refuses to attend or produce the reports, documents or other evidence, the committee and the attorney general may obtain the subpoena requiring him to do so.

4. In carrying out its duties, a committee may make informal inquiry of persons or entities with knowledge relevant to the committee's review and evaluation of the facility it oversees. Any committee which makes such informal inquiries shall advise the facility of those inquiries and of the results of the inquiries.

5. If the owner of a facility claims that the disclosure of information to a committee will reveal a trade secret or confidential information, the owner must specifically identify such information as confidential. When such an identification has been made, the provisions of NRS 459.3846 apply.

6. A committee or its authorized representative may, to carry out its duties enter and inspect the facility overseen, its records and other relevant materials. Before such an inspection is made, the committee shall provide reasonable notice to the facility. The inspection must be conducted in such a manner as to ensure that the operations of the facility will not be disrupted.

7. The attorney general is counsel and attorney to each committee for the purposes of carrying out its duties and powers.

8. The members of a committee may make public comment with regard to their review and evaluation of the facility it oversees. At least 24 hours before making any formal comment, the committee shall advise the facility of its intention to do so and provide the facility with a summary of the comments that will be made.

9. A committee may review and make recommendations to the reviewing authority as to any applications for permits to construct, substantially alter or operate submitted by a facility which has been the subject of the committee's review and evaluation.

(Added to NRS by 1991, 2007)

NRS 459.3868 Duties.

1. A committee shall conduct a comprehensive review and evaluation of the following with respect to each facility within its jurisdiction:

(a) The degree of compliance with NRS 459.380 to 459.3874, inclusive, the applicable fire codes, the regulations, standards and safety orders of the division of industrial relations of the department of business and industry, the rules, regulations and standards of the state environmental commission and any other standards adopted by the Federal Government, State of Nevada or local governments and their respective agencies for the health and safety of persons and property which may be at risk if those rules, regulations, standards, codes and safety orders are not complied with;

(b) The effectiveness of the respective governmental entities and their agencies' enforcement of their respective rules, regulations, standards, codes and safety orders; and

(c) The adequacy and effectiveness of the plans for response to emergencies adopted for the area in which the facility is located in responding to risks posed to the persons and property located within the zone of risk.

2. A committee shall exercise its best efforts to facilitate cooperation among the various governmental entities and agencies responsible for minimizing risks to persons and property posed by the facility within its jurisdiction and the effective enforcement of the various governmental entities' and agencies' rules, regulations, standards, codes and safety orders. A committee shall cooperate to the extent necessary with other committees and governmental agencies to minimize the duplication of records, reports or other information.

3. A committee shall issue a final report of its comprehensive review and evaluation together with any recommendations. A committee shall make such interim reports as it or the governor may deem in the public interest. The division shall distribute the reports to the governor, members of the committee, local governments within the zone of risk, the various governmental agencies whose rules, regulations, standards, codes or safety orders were the subject of the committee's review and evaluation, and the local media. Copies of the final written report must be made available to the public for purchase at cost of reproduction. All interim reports must be distributed forthwith in the same manner as annual written reports.

(Added to NRS by 1991, 2007; A 1993, 595, 1634)

Enforcement and Penalties

NRS 459.387 Entry into facility to verify compliance with statutory requirements; system of recordkeeping; annual report of compliance; confirmation and evaluation of accuracy of report.

1. The division may enter any facility:

(a) During normal business hours; and

(b) At any other time if there is probable cause to believe that a violation of any of the provisions of NRS 459.380 to 459.3874, inclusive, or any regulation adopted pursuant thereto, has occurred,

to verify compliance with the provisions of NRS 459.380 to 459.3874, inclusive, and the quality of all work performed pursuant to those sections except that the owner or operator of a facility need not employ any personnel solely to assure access to the facility by the division when this access would otherwise be impossible.

2. The division shall develop, adopt by regulation and enforce a system of recordkeeping. The system must:

(a) Require the owner or operator of each facility registered pursuant to NRS 459.3828 to report to the division on all efforts to assess and reduce risks undertaken, all continuing maintenance, all unanticipated and unusual events, and any other information the division finds appropriate; and

(b) Be so designed as to prevent the destruction or alteration of information and data contained in those records.

3. Within 30 days after each anniversary of the date on which the plan to reduce accidents was first put into effect, the owner or operator of a regulated facility shall file an annual report of compliance with the division. This annual report must include a report of progress describing in detail all actions taken to comply with the schedule of abatement set forth in the plan, including itemization of abatements accomplished and steps taken to accomplish abatements in accordance with the schedule. The annual report of compliance must be signed and certified as a report on safety and must be in a form and be accompanied by documentation showing compliance in accordance with the regulations of the division.

4. Within 30 days after receiving the annual report of compliance, the division shall conduct at the facility a confirmation and evaluation of the accuracy of the report and independent determination of the status of compliance with the schedule of abatement. The division's findings must be reduced to writing and made available to the public within 60 days after the date of filing of the report.

(Added to NRS by 1991, 1998)

NRS 459.3872 Injunctive relief; levy of civil administrative penalty; notice of levy of penalty; request for hearing; payment of penalty.

1. If any person violates any of the provisions of NRS 459.380 to 459.386, inclusive, or 459.387, or any regulation or order adopted or issued pursuant thereto, the division may institute a civil action in a court of competent jurisdiction for injunctive or any other appropriate relief to prohibit and prevent the violation and the court may proceed in the action in a summary manner.

2. Except as otherwise provided in NRS 445C.010 to 445C.120, inclusive, a person who violates a provision of NRS 459.380 to 459.386, inclusive, or 459.387, or any regulation or order adopted pursuant thereto is liable to a civil administrative penalty as set forth in NRS 459.3874. If the violation is of a continuing nature, each day during which it continues constitutes an additional, separate and distinct offense. No civil administrative penalty may be levied until after

notification to the violator by certified mail or personal service. The notice must include a reference to the section of the statute, regulation, order or condition of a permit violated, a concise statement of the facts alleged to constitute the violation, a statement of the amount of the civil penalties to be imposed, and a statement of the violator's right to a hearing. The violator has 20 days after receipt of the notice within which to deliver to the division a written request for a hearing. After the hearing if requested, and upon a finding that a violation has occurred, the administrator of the division may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice becomes a final order upon the expiration of the 20day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. The authority to levy a civil administrative penalty is in addition to all other provisions for enforcement of NRS 459.380 to 459.387, inclusive, and the payment of a civil administrative penalty does not affect the availability of any other provision for enforcement in connection with the violation for which the penalty is levied.

(Added to NRS by 1991, 2008; A 1997, 1081; 1999, 1131, 2008)

NRS 459.3874 Amount of civil administrative penalties; settlement of claim; imposition of civil penalty. [Effective through December 31, 1999.]

1. The civil administrative penalties are:

	<u>Category of Offense</u>	<u>Penalty in U.S. Dollars</u>
A.	Failure to register a new or existing regulated facility:	\$25,000 plus \$2,000 per day from the due date
B.	Failure to pay the fee required pursuant to NRS 459.3824:	75 percent of the fee
C.	Failure to submit a safety report:.....	\$10,000 plus \$1,000 per day from the due date
D.	Failure to conduct an assessment of risk through analysis of hazards pursuant to the conditions set forth in NRS 459.3844:.....	\$25,000
E.	Failure to put into effect plan:.....	\$50,000
F.	Failure to comply with plan to reduce accidents and schedule of compliance:.....	up to \$5,000
G.	Failure to comply with approved plan to reduce accidents, each requirement:.....	up to \$10,000
H.	Failure to provide information requested by the division:.....	\$25,000
I.	Failure to grant access to employees or agents of division for inspections:.....	\$25,000

<u>Category of Offense</u>	<u>Penalty in U.S. Dollars</u>
J. Failure to provide information or grant access to employees or agents of division during an emergency:.....	\$50,000
K. Falsification of information submitted to division:	up to \$10,000 per incident

2. The division may compromise and settle any claim for any penalty under this section in such amount in the discretion of the division as may appear appropriate and equitable under all of the circumstances, including the posting of a performance bond by the violator. If a violator is subject to the imposition of more than one civil administrative penalty for the same violation, the division shall compromise and settle the claim for the penalty under this section in such amount as to avoid the duplication of penalties.

3. No penalty may be imposed pursuant to this section for the failure to perform a required act within the time required if the delay was caused by a natural disaster or other circumstances which are beyond the control of the violator.

4. Any person who violates any of the provisions of NRS 459.380 to 459.386, inclusive, or 459.387, or any regulation or order adopted or issued pursuant thereto, or an administrative order issued pursuant to subsection 2 of NRS 459.3872 or a court order issued pursuant to subsection 1 of NRS 459.3872, or who fails to pay a civil administrative penalty in full is subject, upon order of the court, to a civil penalty not to exceed \$10,000 per day of the violation, and each day's continuance of the violation constitutes a separate and distinct violation. Any penalty imposed pursuant to this subsection may be recovered with costs in a summary proceeding by the attorney general.

(Added to NRS by 1991, 2009; A 1999, 1131)

NRS 459.3874 Amount of civil administrative penalties; settlement of claim; imposition of civil penalty. [Effective January 1 , 2000.]

1. The civil administrative penalties are:

<u>Category of Offense</u>	<u>Penalty in U.S. Dollars</u>
A. Failure to register a new or existing regulated facility:	\$25,000 plus \$2,000 per day from the due date
B. Failure to pay the fee required pursuant to NRS 459.3824:	75 percent of the fee
C. Failure to submit a safety report:.....	\$10,000 plus \$1,000 per day from the due date
D. Failure to conduct an assessment of risk through analysis of hazards pursuant to the conditions set forth in NRS 459.3844:.....	\$25,000

- E. Failure to put into effect plan:..... \$50,000
- F. Failure to comply with plan to reduce accidents and schedule of compliance:..... up to \$5,000
- G. Failure to comply with approved plan to reduce accidents, each requirement:..... up to \$10,000
- H. Failure to provide information requested by the division:..... \$25,000
- I. Failure to grant access to employees or agents of division for inspections:..... \$25,000
- J. Failure to provide information or grant access to employees or agents of division during an emergency:..... \$50,000
- K. Falsification of information submitted to division: up to \$10,000 per incident
- L. Failure to obtain a permit for the construction of a new regulated facility:..... \$25,000

The civil administrative penalty prescribed in category L may be assessed against a contractor who is constructing the regulated facility only if the contractor is contractually responsible for obtaining all appropriate permits for the construction of the regulated facility and the contractor knows or has reason to know the planned use of the regulated facility.

2. The division may compromise and settle any claim for any penalty as set forth in this section in such amount in the discretion of the division as may appear appropriate and equitable under all of the circumstances, including the posting of a performance bond by the violator. If a violator is subject to the imposition of more than one civil administrative penalty for the same violation, the division shall compromise and settle the claim for the penalty as set forth in this section in such amount as to avoid the duplication of penalties.

3. No penalty may be imposed pursuant to this section for the failure to perform a required act within the time required if the delay was caused by a natural disaster or other circumstances which are beyond the control of the violator.

4. Any person who violates any of the provisions of NRS 459.380 to 459.386, inclusive, or 459.387, or any regulation or order adopted or issued pursuant thereto, or an administrative order issued pursuant to subsection 2 of NRS 459.3872 or a court order issued pursuant to subsection 1 of NRS 459.3872, or who fails to pay a civil administrative penalty in full is subject, upon order of the court, to a civil penalty not to exceed \$10,000 per day of the violation, and each day's continuance of the violation constitutes a separate and distinct violation. Any penalty imposed pursuant to this subsection may be recovered with costs in a summary proceeding by the attorney general.

(Added to NRS by 1991, 2009; A 1999, 1131, 2009, effective January 1, 2000)